IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Bail Appl..No. 8029 of 2007()

CC.1442/2007 of J.M.F.C.-I, KOLLAM
IN CRIME NO.309/03 OF KUNDARA POLICE STATION

.....

PETITIONER/3RD ACCUSED:

VARGHESE EAPEN,
MALIAKKAL HOUSE, THIRUVALLA P.O., THIRUVALLA.

BY ADV. SRI.T.GOPALAKRISHNAN

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
KUNDARA POLICE STATION THROUGH THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY P.P. SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 8029 OF 2007

Dated this the 19th day of December, 2007

ORDER

The petitioner is the 3rd accused in a prosecution for offences punishable, inter alia, under Sec.498A of the IPC. Cognizance was taken. The petitioner was not available for trial. The co-accused were proceeded against, found not guilty and acquitted. The case against the petitioner has been split up. Coercive processes have been issued by the learned Magistrate against the petitioner reckoning him as an absconding accused. The petitioner finds such processes chasing him.

2. According to the learned counsel for the petitioner, the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. He is employed abroad. He was unaware of the proceedings pending against him. He is

willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned

Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

5. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge